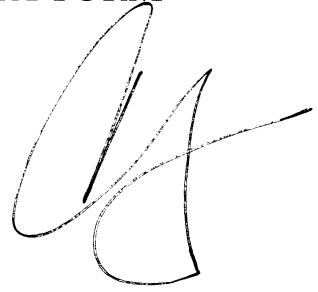


**CITY OF EL PASO, TEXAS**  
**AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM**

**DEPARTMENT:** Financial Services  
**AGENDA DATE:** April 12, 2005  
**CONTACT PERSON/PHONE:** Gonzalo Cedillos, Capital Assets Mgr., X4074  
**DISTRICT(S) AFFECTED:** 3



**SUBJECT:**

An Ordinance authorizing the City Manager to sign a contract of sale and any other necessary documents between the City of El Paso and the Humane Society of El Paso, Inc. which will allow for the city to convey property commonly known as 211 and 325 Shelter Place, El Paso, El Paso County, Texas, including the improvements thereon.

**BACKGROUND / DISCUSSION:**

The above addressed properties are city-owned parcels contained in a comprehensive land purchase dating back to 1914, which included lands east of Boone Street and south of Paisano Drive down to the Rio Grande. In 1949 the city carved an acre to lease land to the Humane Society of El Paso for \$1.00 per annum, their lease was amended to extend to September 2007. Then after carved another acre for the Animal Control & Disease Center, which recently vacated the premises this March 2005. At this time HSEP has submitted an interest of purchase letter of both properties. The properties were recently appraised and HSEP has agreed to pay those values as well as surveying, closing and contingent costs. Gonzalo Cedillos, P.E. Capital Assets Manager has assessed the properties for municipal use and coordinated such with city departments and the Development Coordinating Committee. There was no city function that would readily capitalize on these premises or department interested on these properties, additional the DCC moved to approve the release the properties for sale on February 9, 2005. Being that HSEP is nonprofit group that has provided animal control and adoption services that is complementary to city-county health and animal control services it was concluded best for public benefit to sell directly to this agency. Therefore, the purchasing department is seeking city council approval and authorization to proceed with direct sale negotiations with HSEP.

Under Section 253.011 of the Texas Local Government Code, a municipality may transfer to a non profit organization, for consideration, real property without complying with the notice and bidding requirements of Section 272.001(a) of the Texas Local Government Code or other law. This exception requires an agreement between the parties that the nonprofit will use the property in a manner that primarily promotes a municipal public purpose, and , if the non-profit at any time fails to use the property in that manner, ownership of the property automatically reverts to the City. As a result, the purchase price clause of the contract of sale states that the purchase price for the Property shall be \$385,000 and the requirement that the Society shall primarily use the property to (1) Promote animal health and welfare, (2) Provide temporary shelter for adoptable animals, and (3) Provide public education for humane treatment of animals and responsible pet ownership, which promote a public purpose of the City of El Paso, and if the Society at any time fails to use the Property in that manner, ownership of the Property automatically reverts to the City.

Council will need to acknowledge that the mission statement provided by the Humane Society promotes a municipal public purpose.

**PRIOR COUNCIL ACTION:**

Council has previously approved sale of City-owned property on July 4, 2004.

**AMOUNT AND SOURCE OF FUNDING:**

\$385,000 in Revenue

**BOARD / COMMISSION ACTION:**

DCC approved sale on February 9, 2005

**\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\***

**LEGAL:** (if required) \_\_\_\_\_ **FINANCE:** (if required) \_\_\_\_\_

**DEPARTMENT HEAD:** \_\_\_\_\_

(Example: *if RCA is initiated by Purchasing, client department should sign also*  
*Information copy to appropriate Deputy City Manager*)

**APPROVED FOR AGENDA:**

**CITY MANAGER:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AUTHORIZING THE CITY MANAGER TO SIGN A CONTRACT OF SALE AND ANY OTHER NECESSARY DOCUMENTS BETWEEN THE CITY OF EL PASO AND THE HUMANE SOCIETY OF EL PASO, INC. WHICH WILL ALLOW FOR THE CITY TO CONVEY PROPERTY COMMONLY KNOWN AS 211 AND 325 SHELTER PLACE, EL PASO, EL PASO COUNTY, TEXAS, INCLUDING THE IMPROVEMENTS THEREON.**

**WHEREAS**, the City of El Paso staff recommended property described locally known as 211 and 325 Shelter Place, El Paso, El Paso County, Texas, including the improvements thereon, be sold; and,

**WHEREAS**, The Humane Society of El Paso, Inc., a non-profit organization exempt from federal taxation under Section 501(c)(3), Internal Revenue Code of 1986, as amended, has requested that the City of El Paso convey to it 325 Shelter Place, which it is presently leasing from the City, and 211 Shelter Place, which is the vacated former Animal Regulation & Disease Control Center; and

**WHEREAS**, under Section 253.011 of the Texas Local Government Code, a municipality may transfer to a non profit organization, for consideration, real property without complying with the notice and bidding requirements of Section 272.001(a) of the Texas Local Government Code or other law; and

**WHEREAS**, the City of El Paso has received an independent appraisal of \$385,000 as the market value of its interest in 211 and 325 Shelter Place, El Paso, El Paso County, Texas; and

**WHEREAS**, The Humane Society of El Paso, Inc. has agreed to pay the appraised value of the identified property and to use the property in a manner that primarily promotes a public purpose of the City of El Paso, and if The Humane Society of El Paso, Inc. at any time fails to use the identified property in that manner, ownership of the property automatically reverts to the City of El Paso;

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

That the City Manager is hereby authorized to sign a Contract of Sale and any other necessary documents, in a form approved by the City Attorney's Office, conveying to The Humane Society of El Paso, Inc. real property described commonly known as 211 and 325 Shelter Place, El Paso, El Paso County, Texas, including the improvements thereon.

**PASSED AND APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

THE CITY OF EL PASO

\_\_\_\_\_  
Joe Wardy - MAYOR

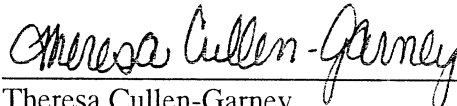
ATTEST:

\_\_\_\_\_  
Richarda Momsen  
Municipal Clerk

APPROVED AS TO CONTENT:

\_\_\_\_\_  
Byron E. Johnson  
Director of Purchasing

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Theresa Cullen-Garney  
Deputy City Attorney



325 Shelter Place • P.O. Box 9794 • El Paso, Texas 79995 • (915) 532-6971 • Fax (915) 532-0155

March 23, 2005

Gonzalo Cedillos  
City of El Paso  
Capital Assets Mgr.  
Financial Services Department  
El Paso, Texas

Re: Purchase of 211 and 325 Shelter Place,  
El Paso, Texas 79905

Dear Mr. Cedillos:

Sam Davis has informed the board of the Humane Society of El Paso (HSEP) that you are willing to take our offer to purchase the property at 211 and 325 Shelter Place through the necessary process to determine if the City of El Paso will agree to a sale.

The board of directors of the HSEP met on March 22, 2005 and voted to offer to purchase 211 and 325 Shelter Place from the City of El Paso on the following terms:

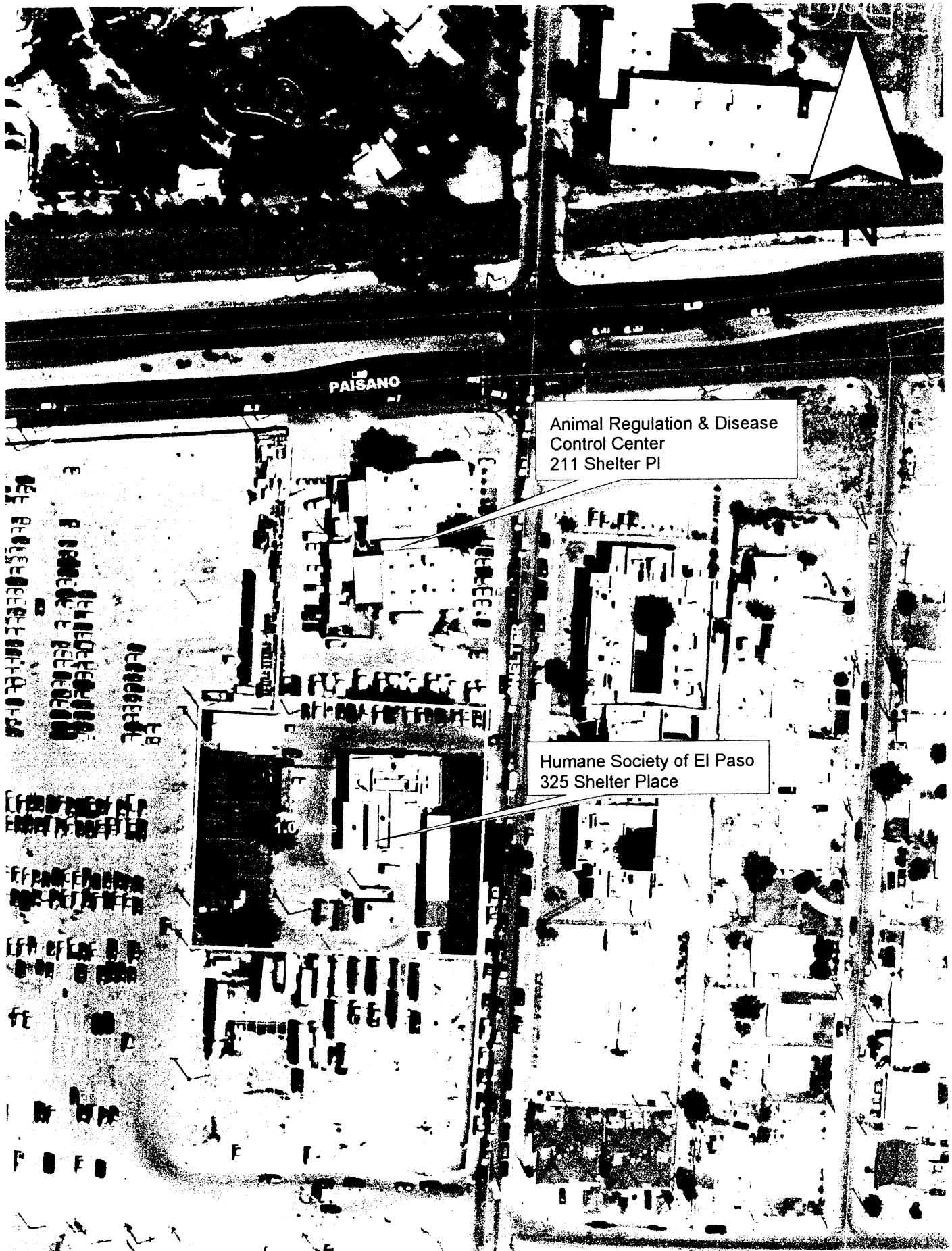
1. Purchase price will be the appraised value of \$385,000.
2. HSEP will pay for required survey.
3. HSEP will pay closing cost.
4. HSEP will make cash payment in full at closing.

If you should need any more information that would help us be successful with this endeavor, please contact me or Sam Davis at 449-5664.

The board of the HSEP thanks you for your assistance and I look forward to hearing from you soon.

Sincerely,

Tom McCabe DVM  
President-Humane Society of El Paso  
PH: 491-3379



Animal Regulation & Disease  
Control Center  
211 Shelter Pl

Humane Society of El Paso  
325 Shelter Place

JOE WARDY  
MAYOR

JOYCE WILSON  
CITY MANAGER



CITY COUNCIL  
SUSAN AUSTIN, DISTRICT 1  
ROBERT A. CUSHING, JR., DISTRICT 2  
ALEXANDRO LOZANO, DISTRICT 3  
JOHN F. COOK, DISTRICT 4  
PRESI ORTEGA, DISTRICT 5  
PAUL J. ESCOBAR, DISTRICT 6  
VIVIAN ROJAS, DISTRICT 7  
ANTHONY W. COBOS, DISTRICT 8

## FINANCIAL SERVICES

February 8, 2005

TO: Development Coordinating Committee

FROM: Gonzalo Cedillos, P.E.  
Capital Assets Manager

SUBJECT: 325 and 211 Shelter Place

A handwritten signature in black ink, appearing to be "Gonzalo Cedillos", is written over the "FROM:" line.

The Humane Society of El Paso is expressing interest in purchasing City-owned property located at the above addresses being particular the Animal Regulation & Disease Control Center and the Humane Society Facility, which land, belongs to the city.

The Humane Society at 325 Shelter Place is 1.0 Acre with 6,545 square feet of building. The property is legally described as a portion of E R Talley Survey 7, City of El Paso, El Paso County, Texas.

The Animal Regulation & Disease Control Facility at 211 Shelter Place is 1.1 Acre with 8,000 square feet of building, legally described as a portion of E R Talley Survey 7, City of El Paso, El Paso County, Texas.

It has been at least 40 years that the Animal Regulation & Disease Control facility was built; therefore it's on the end of its useful life. Furthermore the facility is impregnated with animal urine and fecal stench. So to claim the property will demand a total demolition, environmental cleanup and substantial investment in design and construction work to get this property back into service. I know of no plans or budget to develop this facility for full municipal use in the near future.

I present this issue to your committee for consideration and support finding this city-owned facility as underutilized and a surplus asset. If you have any questions, please contact me at @ X4074.

### Attachments

C: William Studer, Deputy City Manager  
Byron E. Johnson, Purchasing Director

## ***SUMMARY OF SALIENT FACTS***

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Name of Property: El Paso Humane Society  
Type of Property: City Service Use  
Property Classification: Special Purpose  
Property Address: 325 Shelter Place, El Paso, Texas

Land Area: 43,560 Square Feet (Estimated)  
Building Area: 6,545 Square Feet; Gross Building Area  
Year of Construction: 1949-96

Zoning Classification: M-1 (Industrial allowing Commercial)  
Zip Code: 79905  
Flood Zone Designation: Zone C (Area of minimal flooding)  
School District: El Paso Independent School District

Effective Appraisal Date: September 25, 2003  
Date of Report: October 1, 2003  
Purpose of the Appraisal: Estimate Market Value  
Property Rights Appraised: Fee Simple

Highest & Best Use of Land If Vacant: Commercial Development  
Highest & Best Use as Improved: Office Warehouse, Holding Use  
Marketing Time Estimates: Twelve months at appraised value

### **INDICATED MARKET VALUES:**

Site Value: \$175,000  
Via Cost Approach: Not Applicable  
Via Sales Comparison Approach: \$225,000  
Via Income Capitalization Approach: \$225,000

**\$225,000**

**AS IS, MARKET VALUE CONCLUSION**



## ***SUMMARY OF SALIENT FACTS***

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Name of Property: Animal Regulation & Disease Control  
Type of Property: City Service Use  
Property Classification: Special Purpose  
Property Address: 211 Shelter Place, El Paso, Texas

Land Area: 38,158 Square Feet (Estimated)  
Building Area: 8,000 Square Feet; Gross Building Area  
Year of Construction: 1964-75

Zoning Classification: M-1 (Industrial allowing Commercial)  
Zip Code: 79905  
Flood Zone Designation: Zone C (Area of minimal flooding)  
School District: El Paso Independent School District

Effective Appraisal Date: September 25, 2003  
Date of Report: October 1, 2003  
Purpose of the Appraisal: Estimate Market Value  
Property Rights Appraised: Fee Simple

Highest & Best Use of Land If Vacant: Commercial Development  
Highest & Best Use as Improved: Redevelopment  
Marketing Time Estimates: Twelve months at appraised value

### **INDICATED MARKET VALUES:**

Site Value: \$210,000  
Via Cost Approach: Not Applicable  
Via Sales Comparison Approach: \$215,000  
Via Income Capitalization Approach: \$200,000

**\$210,000**

**AS IS, MARKET VALUE CONCLUSION**

STATE OF TEXAS       §  
                                  §  
COUNTY OF EL PASO   §

SECOND LEASE AMENDMENT

This Second Lease Amendment is effective the 6<sup>th</sup> day of January, 2004, by and between the CITY OF EL PASO, hereinafter referred to as the "City", and EL PASO COUNTY HUMANE SOCIETY, INC., hereinafter referred to as the "Lessee."

**WHEREAS**, the City and the Lessee are parties to that certain Lease Agreement ("Original Lease") dated September 19, 1974, adopted by Resolution of even date, a copy of which Lease is attached hereto as Exhibit "A" and made a part hereof as if fully set forth herein, wherein the City, as Lessor, leased to Lessee the following described real property, to wit:

Beginning at a point which is two hundred forty (240') feet west from the southwest corner of the Orchard Park Addition along the south line of the said addition extended westward and two hundred twenty seven (227') feet north of the said south line, measured at a right angle thereto; thence west parallel with the said south line of Orchard Park Addition two hundred twenty (220') feet to a point; thence north at a right angle with the said line one hundred ninety eight (198') feet to a point; thence east at a right angle two hundred twenty (220') feet to a point; thence south at a right angle one hundred ninety-eight (198') feet to a point of beginning, and containing one (1) acre of land, commonly known as 325 Shelter Place, El Paso County, Texas; and

**WHEREAS**, the parties amended the Original Lease on June 6, 1995, to amend the procedures for approval of any plans for additions to the existing building of the property to be leased, which lease amendment ("1995 amendment") is attached hereto as Exhibit "B" and made a part hereof as if fully set forth herein; and

**WHEREAS**, Lessee has requested that the City amend the Lease Agreement by modifying Paragraph 2 of the September 19, 1974 Original Lease Agreement between the City of El Paso and EL PASO COUNTY HUMANE SOCIETY, INC.

**NOW THEREFORE**, the parties hereto agree and covenant as follows:

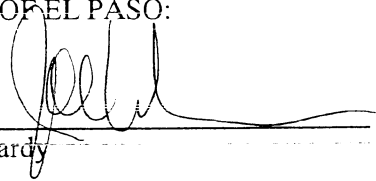
1. That Paragraph 2 of the Original Lease is hereby amended to read as follows:

EL PASO COUNTY  
HUMAN SOCIETY, INC.  
C


2. **TO HAVE AND TO HOLD** the demised premises with the rights and appurtenances thereunto belonging to the said Lessee and its successors to begin on the date hereof, and to continue thereafter for a period of 3 years unless terminated by either party's giving the other at least 18 months prior written notice of the intention to terminate the tenancy.
3. Except as herein amended, the Lease Agreement dated September 19, 1974, shall remain in full force and effect.

**WITNESS THE FOLLOWING SIGNATURES AND SEAL:**

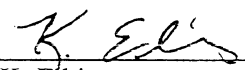
CITY OF EL PASO:

  
\_\_\_\_\_  
Joe Wardy  
Mayor

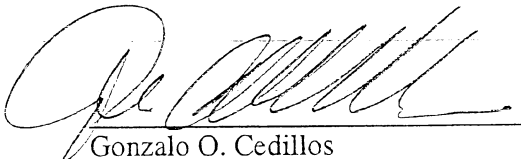
ATTEST:

  
\_\_\_\_\_  
Richarda Duffy Momsen  
City Clerk

APPROVED AS TO FORM:

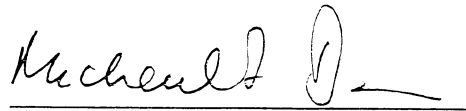
  
\_\_\_\_\_  
K. Elkins  
Assistant City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Gonzalo O. Cedillos  
Capital Assets Manager

*(Signatures continue on following page)*

EL PASO COUNTY HUMANE SOCIETY, INC.

A handwritten signature in black ink, appearing to read "Michael Davis", written over a horizontal line.

Michael Davis  
President

ATTEST:

\_\_\_\_\_  
Secretary